

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: March 22, 2018

Time: 11:00 a.m.

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In re:

FELIX DAVILA

Chapter 13
Case No.: 17-72869-736

Debtor(s)

NOTICE OF MOTION

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SIRS / MADAMS

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge on the 22nd day of MARCH, 2018 at 11:00 a.m., at the United States Bankruptcy Court located at the Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza – Courtroom 860, Central Islip, New York 11722, for an Order pursuant to 11 U.S.C. §1307(c), dismissing this case, by reason of the debtor(s)' default in making timely monthly plan payments under the Chapter 13 Plan, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be filed with the Court and served upon the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Islandia, New York
February 27, 2018

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, New York 11749
(631) 549-7900

*To: Office of the United States Trustee
FELIX DAVILA, Debtor(s)
JOHN GONZALEZ, ESQ., Attorney for Debtor(s)
All Interested Parties and Creditors*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 13
Case No.: 17-72869-736

FELIX DAVILA

Debtor(s)

APPLICATION

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TO THE HONORABLE ROBERT E. GROSSMAN, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee in the above captioned estate, respectfully represents as follows:

1. The debtor(s) filed a Chapter 13 petition under the provisions of 11 U.S.C., on May 10, 2017, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. The debtor(s)' plan was later confirmed by Order of this Court on, November 2, 2017.
3. The debtor(s)' plan provides for payment to the Trustee in the sum of \$760.00 per month, per month, for a period of one (1) month; \$136.00 per month, for a period of four (4) month; \$801.00 per month, for a period of fifty-five (55) months.
4. The debtor(s) is in default in that the Trustee is owed the total sum of \$3,461.00 representing more than four (4) monthly plan payments. This amount includes all plan payments due to the Trustee until the return date of this motion.
5. Furthermore, in the event this motion is adjourned to a later date, the Trustee requests that the motion be amended to include as arrearage, all payments that accrue from the date of the scheduled hearing until the adjourned hearing.
6. This is a material default and is prejudicial to the rights of the creditors of the debtor(s).

WHEREFORE, the Trustee requests an Order pursuant to the provisions of 11 U.S.C. §1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York
February 27, 2018

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, New York
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

STEPHANIE TURNER, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age, and resides in Suffolk County, New York.

On February 27, 2018 deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Felix Davila
105 Ames Street
Brentwood, NY 11717
Debtor(s)*

*Ditech Financial LLC
c/o Fein, Such & Crane, LLP
Tammy L. Terrell Benoza, Esq.
1400 Old Country Road, Suite C103
Westbury, NY 11590*

*Ditech Financial LLC
c/o Fein, Such & Crane, LLP
Tammy L. Terrell Benoza, Esq.
7 Century Drive, Suite 201
Parsippany, New Jersey 07054*

and upon the following parties, by the e-mail address designated by said parties for that purpose;

*Office of the United States Trustee
Alfonse M. D'Amato U.S. Courthouse
560 Federal Plaza
Central Islip, NY 11722
USTPRegion02.LI. ECF@usdoj.gov*

*John Gonzalez, Esq.
johngonzalez@nybklawyer.com
Attorney for Debtor(s)*

/s/Stephanie Turner
STEPHANIE TURNER

Sworn to before me this
27th day of FEBRUARY, 2018

/s/ Loni Bragin
NOTARY PUBLIC
Loni Bragin
Notary Public, State of New York
No. 01BR6172194
Qualified in Suffolk County
Commission Expires August 6, 2019